

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.309 OF 2023

Mamta d/o Sitaram Bokse @ Mamta Nikam and others

Vs.

The State of Maharashtra through P.S.O. Amdapur, Tehsil Chikhli District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. O. Ahmed, Advocate for applicants.
Ms. N. P. Mehta, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/05/2023

1. By this application, the applicants are seeking anticipatory bail in the event of their arrest in connection with Crime No.117/2023, registered at Police Station, Amdapur, Tehsil Chikhli, District Buldhana for the offence punishable under Sections 306, 143, 147, 148, 149, 294, 323, 324 and 506 read with 34 of the Indian Penal Code.

2. The applicants are apprehending arrest at the hands of the police of Amdapur, District Buldhana, as one Ramesh Ananda Bokse has lodged report against the applicants on an allegation that deceased Kailash is his son. On 05.04.2023 there was some religious function in the Hanuman Temple of the village. His daughter-in-law after attending the said function returned to the home

and disclosed that applicant No.1 made a statement 'तुम्ही बोक्से परीवाराच्या बायका काही चांगल्या वागत नाही तुम्ही एकदम मोकट आहात' thereafter, the deceased and the informant consoled the wife of the Kailash. On 10.04.2023 at about 7.00 p.m Kailash inquired with Ramesh Ashok Bokse regarding the statement made by the applicant No.1, at the relevant time, he was assaulted the Rameshwar by fist and kick blows. Thereafter, on 11.04.2023 at about 7.30 a.m. Kailash was not returned at home and at about 8.00 a.m. Kailas returned at home in injured condition and disclosed that he was assaulted in front of the other villagers and he felt humiliated. He went back side of the house and consumed the poison. He was immediately removed to the hospital but he succumbed to the death. As per the allegations of the prosecution, he was committed suicide due to the abetment at the hands of the present applicants.

3. On the basis of said report, police have registered the offence against the applicants along with other co-accused.

4. It is contention of the applicants that due to the previous enmity they are falsely implicated. In fact, the offence under Section 306 of the Indian Penal Code is not made out and there is no abetment caused by the present applicants. Their custodial interrogation is not

required, therefore, they be released on anticipatory bail in the event of their arrest.

5. The said application is strongly opposed by the learned APP, Ms. Mehta for the non-applicant/State on the ground that investigation is still in progress. The custodial interrogation of the present applicants are required. The incident occurred is series which shows that there was continuous abetment at the hands of the applicants and hence application deserves to be rejected.

6. Heard learned Advocate Mr. S. O. Ahmed for the applicants. He reiterated the contentions and submitted that investigation is practically completed. The custodial interrogation of the present applicants are not required. The applicants are ready to co-operate with the investigating agency. Therefore, they be released on anticipatory bail in the event of the arrest.

7. Learned APP Ms. Mehta for the non-applicant/State strongly opposed the application on the ground that the recitals of the FIR itself shows that there was continuous abetment at the hands of the present applicants. Applicant No.1 is the prime accused and whose instance the alleged incident has taken place and therefore, application deserves to be rejected. She further submitted that investigation is still in progress. The custodial interrogation of the present applicants is

required considering the serious allegations against the present applicants.

8. Perused the investigation papers. It reveals from the investigation papers that the Investigating Officer has already drawn the spot panchnamas, the relevant articles are already seized and forwarded to the Chemical Analysis. As far as, the allegation regarding the assault is concerned, the only injury sustained by the deceased are in nature of abrasions which are simple injuries. It reveals from the investigation papers, the investigation is practically completed. The bottle of poison is already seized after registration of the crime itself. Therefore, nothing is to be recovered from the present applicants. Their custodial interrogation is not at all required. Considering the nature of the allegations, the application deserves to be allowed subject to the certain conditions.

9. In view of the above, I proceed to pass the following order.

(i) Application is allowed.

(ii) Applicant Nos.(1) Mamta D/o Sitaram Bokse @ Mamta Nikam, (2) Alka Raju Bokse and (3) Parmeshwar Ashok Bokse are released on anticipatory bail in the event of their arrest in connection with Crime

No.117/2023, registered at Police Station, Amdapur, Tehsil Chikhli, District Buldhana for the offence punishable under Sections 306, 143, 147, 148, 149, 294, 323, 324 and 506 read with 34 of the Indian Penal Code, on furnishing PR bond in the sum of Rs.20,000/- each with one solvent surety in the like amount.

(iii) The applicants shall attend Police Station once in a week on Wednesday between 10.00 a.m. to 1.00 p.m. and shall co-operate with the investigating agency.

(iv) The applicants shall not involve themselves to either the pressurize the witnesses or make any attempt to hamper the investigation or tamper the prosecution witnesses, if found the bail granted to the applicants deserves to be cancelled.

Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate